REMARKS

Claims 1-25 are pending in this application. Claims 24 and 25 were objected to for being misnumbered. Claims 23-25 were rejected under 35 U.S.C. 101 for claiming non-statutory subject matter. Claims 1-25 have been rejected under 25 U.S.C. 102(e) over Friedland et al. (U.S. 6,449,601, hereinafter "Friedland"). Claims 1-3, 6, 8, 9, 15, 20, and 22-25 have been amended to define still more clearly what Applicant's regards as his invention. Favorable reconsideration is respectfully requested.

Claims 24 and 25 were objected to for being misnumbered. Claims 24 and 25 were renumbered to overcome this objection. Claims 1-3, 6, 8, 9, 15, 20, and 22-25 have been amended. Support for the amendment of these claims can be found in the specification at least on page 7 lines 4-16, and Fig. 3.

a. 35 U.S.C. §101

In the Office Action dated March 24, 2006, claims 23-25 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

On pages 2 and 3 of the Office Action, the Examiner contends that:

> "the method claims as presented do not claim a technological basis in the pre-amble and the body of the claim...the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory ... In contrast, a method claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential]."

Applicant respectfully submits that the content and reasoning of Ex parte Bowman does not reflect the current state of the law on 35 U.S.C § 101. In Ex parte Lundgren, the Board of Patent Appeals and Interferences held that "there is currently no judicially recognized separate "technological arts" test to determine patent eligible subject matter under § 101." See *Ex parte Lundgren* 76 U.S.P.Q.2d 1385 at 5. Furthermore, the Court of Appeals for the Federal Circuit held that to be eligible for patent protection, the claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." See *State Street Bank & Trust Co.* v. *Signature Financial Group Inc.*, 149 F. 3d 1373-74, 47 USPQ2d 1601-02 (Fed. Cir. 1998); *AT&T Corp.* v. *Excel Communications, Inc.*, 172 F.3d 1352, 50 USPQ2d 1447 (Fed. Cir. 1999); see also www.USPTO.gov, *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility,* p. 1, 19 (Oct. 26, 2005), http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf.

Applicant respectfully submits that the Office Action did not support a *prima facie* case of non-statutory subject matter. Nevertheless, in the interest of expediting the prosecution of this application, Applicant has, without prejudice, amended claims 23-25 to more clearly claim Applicant's invention. These amendment have rendered the rejection moot.

b. 35 U.S.C. §102(e)

In the Office Action dated March 24, 2006, the Examiner rejected Claims 1-25 under 35 U.S.C. §102(e) over Friedland (6,449,601). Applicant respectfully traverses this rejection.

Amended claim 1 explicitly requires capturing "live images **of a property being auctioned,**" "**storing** into a server at least the live images of the property being auctioned," and "transmitting over a communications network at least **the live images of the property being auctioned.**" (Emphasis added). Applicant respectfully submits that these features of the present invention are neither taught nor suggested by Friedland.

In rejecting claim 1, on page 4 of the Office Action, the Examiner cited Friedland col. 2, line 44 to col. 3, line 42; col. 6, line 14 to col. 7, line 20; and col. 13, lines 15-62. Applicant respectfully asserts that none of the cited portions of Friedland teach or suggest the above-mentioned limitations of amended claim 1.

For example, col. 2, line 44 to col. 3, line 42 merely teaches that "The collector/redistributor nodes are heirarchically (sic) interconnected and serve to ... effeciently (sic) broadcast status messages concerning the live auction received from the auction server to a large number of remote client programs running on remote computers." See Friedland Col. 3, lines 23-29. Also, in col. 6, line 14 to col. 7, line 20, Friedland merely describes the various stages of "a real time, live auction." Finally, col. 13, lines 15-62 merely discloses "a list of auction screen 806" and "an auction status screen 808." Friedland does not teach or suggest capturing "live images **of a property being auctioned**," "**storing** into a server at least the live images of the property being auctioned," and "transmitting over a communications network at least **the live images of the property being auctioned**," as explicitly required by claim 1. (Emphasis added).

In column 8, lines 17-27 (a section that was not explicitly cited by the Examiner), Friedland merely discloses that "remote bidders 316-319 monitor the live auction via the status information broadcast from the DLA auction server 312, and may also listen to the auction via real-time audio broadcast of the live auction or **watch the auction via real-time video broadcast** of the live auction captured by one or more recording devices." (Emphasis added)

Applicant respectfully asserts that watching "the auction via real-time video broadcast," as briefly suggested by Friedland, is very different from capturing "live images **of a property being auctioned**," "**storing** into a server at least the live images of the property being auctioned," and "transmitting over a communications network at least **the live images of the property being auctioned**," as explicitly required by claim 1. (Emphasis added). While Friedland brief disclosure of a "real time video broadcast" is non-enabling and vague at best, it is very clear that Friedland did not envisage Applicant's claimed method. For example, Friedland does not teach or suggest "**storing** into a server at least **the live images of the property** being auctioned." (Emphasis added). In contrast to Applicant's invention, Friedland only envisaged storing a pictorial description of an item being auctioned as part of an inventory browsing system. See Friedland Fig. 7 (722); and col. 12, lines 61-67. Again, Friedland does not teach or suggest

capturing "live images **of a property being auctioned**," "**storing** into a server at least the **live images** of the property being auctioned," and "transmitting over a communications network at least **the live images of the property being auctioned**," as explicitly required by claim 1. (Emphasis added).

For at least all of the above-mentioned reasons, withdrawal of the rejection of claim 1 over Friedland is respectfully requested.

Claims 3-8 depend on and include all of the limitations of independent claim 1. Therefore, all of the above-mentioned arguments with respect to independent claim 1 apply with equal force to dependent claims 3-8. Therefore, withdrawal of the rejection of claims 3-8 over Friedland is respectfully requested.

Amended independent claims 9 and 15 explicitly require "a multimedia device capable of inputting scenes from the live auction **and live scenes of a property being auctioned**" into the server. (Emphasis added). And independent claim 20 explicitly requires "transmit a description **and a live image of a piece of property to be auctioned**." (Emphasis added). Also, claim independent 22 explicitly requires that "at least one of the display areas **depicts a live image of a property being auctioned**." (Emphasis added). Finally, independent claim 23 requires that a computer "transmit over a computer communications network a description **and a live video image of a piece of property to be auctioned**." (Emphasis added). Applicant respectfully submits that these features of the present invention are neither taught nor suggested by Friedland.

In rejecting these features in independent claims 9, 15, 20, 22, and 23, on pages 4 and 5 of the Office Action, the Examiner cited Friedland col. 2, line 44 to col. 3, line 42; col. 6, line 14 to col. 7, line 20; and col. 13, lines 15-62. As asserted above with respect to claim 1, Applicant respectfully submits that none of the cited portions of Friedland teach or suggest the above mentioned elements of claims 9, 15, 20, 22, and 23. Withdrawal of the rejections of claims 9, 15, 20, 22, and 23 is therefore respectfully requested.

Claims 10-14 depend on and include all of the limitations of independent claim 9. Claims 16-19 depend on and include all of the limitations of independent claim 15. Claim 21 depends on and include all of the limitations of independent claim 20. Claims 24 and 25 depend on and include all of the limitations of independent claim 23. Therefore, all of the above mentioned arguments with respect to independent claims 9, 15, 20, and 23 apply with equal force to dependent claims 10-14, 16-19, 21 and 24-25,

respectively. Therefore, withdrawal of the rejection of claims 10-14, 16-19, 21 and 24-25 over Friedland is respectfully requested.

CONCLUSION

Claims 1-25 are pending in this application. Accordingly, it is respectfully submitted that all pending claims are in condition for allowance. Applicant respectfully requests that all pending claims be allowed.

Please charge any additional fees for this Amendment or credit any overpayments to Deposit Account No. 50-0521.

Respectfully submitted,

Date: July 20, 2006

Victor Siber
Reg. No. 25,149

Customer No. 27383
Telephone: 212 878-8429